

# About the Milltown Water Right

## MAIN POINTS

**01.** The Milltown Water Right was split into two rights – one for each of the Clark Fork and Blackfoot rivers. Most people still refer to these two rights as the Milltown Water Right.

**02.** The priority date of December 11, 1904, remains the same.

**03.** Enforcement of the water right is deferred until April 24, 2025.

The Milltown Water Right began on December 11, 1904 as an instream hydropower right to generate electricity at the Milltown Dam for the Bonner lumber mill. The dam and its water right were later acquired by Montana Power Company for regional power supply, and then by Northwestern Energy. Throughout its history, the Milltown Water Right was continuously used for hydropower generation and was maintained as an active water right during changes in ownership. In 2008, the State acquired the water right through the Upper Clark Fork River Basin Superfund settlement with the intent the water right would be used to restore the fishery and recreational uses.

On April 24, 2015, the Montana Legislature ratified the Confederated Salish & Kootenai Tribes – Montana Water Rights Compact (MCA 85-20-1901). 85-20-1901 stipulates that 1) the Milltown Dam hydropower water right will be split into two separate, active and enforceable water rights that are owned by Fish, Wildlife & Parks (FWP); 2) as of September 17, 2021<sup>1</sup>, the Tribes are a co-owner with FWP of these water rights; 3) enforcement of the water right will be deferred for 10 years (until April 24, 2025); and, 4) during the deferral period, FWP and the Tribes will engage with other stakeholders in the basin on water management, drought planning and the exercise of water rights with other water users and interested citizens.

As first steps, FWP and the Tribes are looking to:

- Provide accurate information on the water right;
- Hear and understand local water management issues; and,
- Identify informational needs.

The ultimate goal is to determine ways to reduce impacts to affected water users. FWP plans to report back to the Legislature on these efforts.

## Changes in a nutshell...

	From	To
<b>Water right number</b>	76M 94404-00	Clark Fork: 76M 94404-01 Blackfoot: 76M 94404-02
<b>Purpose</b>	Hydropower generation	Instream fishery habitat
<b>Minimum flow rate</b>	2,000 cubic feet/second (cfs)	Clark Fork: 500 cfs Blackfoot: 700 cfs
<b>Maximum flow rate</b>	2,000 cfs	Clark Fork: 833 cfs Blackfoot: 1,167 cfs
<b>Measurement point</b>	Below the Clark Fork & Blackfoot confluence	Clark Fork: Turah bridge Blackfoot: Bonner
<b>Initiation of call</b>	Flow falls below 2,000 cfs	Flow falls below daily enforceable flow rate during 4 out of 5 consecutive days
<b>Termination of call</b>	Flow rises above 2,000 cfs	Flow rises above daily enforceable rates during 2 out of 5 consecutive days
<b>Water uses susceptible to call</b>	Any water use junior to Dec 11, 1904	Surface water irrigation with a priority date between Dec 11, 1904 and Apr 24, 2015  Groundwater irrigation exceeding 100 gallons/minute with a priority date between Dec 11, 1904 and Apr 24, 2015  Any water use junior to Apr 24, 2015

To access the water right abstracts, visit:

<https://dnrc.mt.gov/Water-Resources/Compacts/Milltown-ISF-Info>

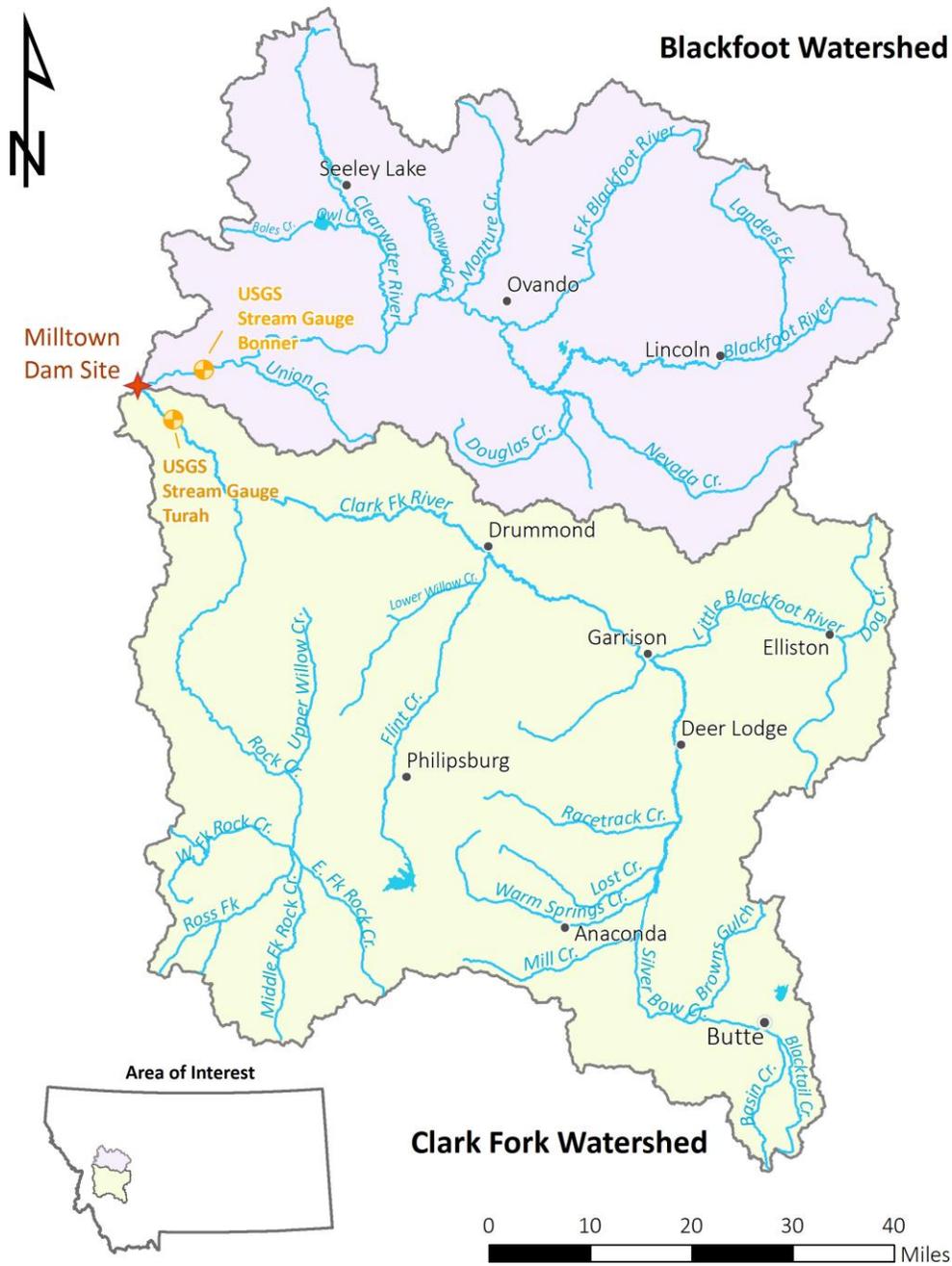


<sup>1</sup>On September 17, 2021, the Compact was signed by the U.S. Secretary of the Interior, thereby enacting the Compact and completing the final step in the Federal-Tribal-State Compact approval process.

## What are the potential effects of this change?

The Milltown Water Right was split into two rights – one right for the Clark Fork River and one right for the Blackfoot River. By splitting the single right into two separate and independently enforceable rights, each basin is protected from call from the other basin. In other words, the enforceable water right in the Blackfoot Basin can only be called in the Blackfoot Basin. Likewise, the enforceable water right in the Upper Clark Fork Basin can only be called in the Upper Clark Fork Basin.

It is difficult to anticipate future call conditions for the Milltown Water Right since these depend on among other things water supply, management plans, and mitigation options. However, to provide context, FWP and the Tribes looked at the last ten years of river flow for each basin using the following scenario. We looked only at August flows and identified days where the river flows were below the trigger for the instream water right for ten consecutive days and found that this call scenario was met in five of ten years in the Blackfoot and in three of ten years in the Clark Fork.



## CONTACT INFORMATION

Stephen Begley, Water Conservation Specialist, FWP – 406-444-1229, sbegley@mt.gov

Seth Makepeace, Hydrologist, CSKT – 406-675-2700 ext. 6255, seth.makepeace@cskt.gov

Patrick Saffel, Fisheries Manager, FWP – 406-542-5507, psaffel@mt.gov